

**BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF UTAH**

**COMPLAINANT:**

UTAH INSURANCE DEPARTMENT

**RESPONDENT:**

FIRST SOUTHWESTERN TITLE  
AGENCY OF UTAH, INC.

102 West 500 South, Suite 30  
Salt Lake City, UT 84101

License No. 6033

**ORDER ON HEARING**  
(Formal Hearing)

DOCKET No. 2006-011-PC

Mark E. Kleinfield,  
Presiding Officer

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**STATEMENT OF THE CASE**

**THIS MATTER**, concerning *Section 31A-23a-111(5)(b)(xxiii) and (xxiv), Utah Code Ann., 1953, as amended*, and *18 United States Code 1033* came on to be heard before the Commissioner of the Utah State Insurance Department ("*Department*") on Wednesday, May 24<sup>th</sup>, 2006 at 8:30 o'clock A. M. Mountain Time, with Mark E. Kleinfield, *Administrative Law Judge*, serving as designated *Presiding Officer*.

Said hearing being held at the *Heber J. Wells State Office Building*, 160 East 300 South, 5<sup>th</sup> Floor Conference Room, Salt Lake City, Utah 84114, having been convened at the designated time of 8:30 (8:45) A. M., May 24<sup>th</sup>, 2006 and adjourned at 1:37 P. M. on said same day.

**Appearances:**

M. Gale Lemmon, *Assistant Attorney General*, Attorney for Complainant, Utah State Insurance Department, State Office Building, Room 3110, Salt Lake City, Utah 84114.

Kendall S. Peterson, *Attorney At Law*, Peterson, Reed, Warlaumont & Stout, Attorney for Respondent, 800 Boston Building, 9 Exchange Place, Salt Lake City, Utah 84111.

**By the Presiding Officer:**

Pursuant to a March 27<sup>th</sup>, 2006 *Pre-Hearing Conference Order* and an April 21<sup>st</sup>, 2006 *Notice of Continuation of Hearing* a hearing was conducted on May 24<sup>th</sup>, 2006 in the above-entitled proceeding. The Respondent was present at that time.

The hearing was convened and conducted as a **formal hearing** in accordance with Utah Code Ann. Sections 63-46b-6, 63-46b-7, 63-46b-8, 63-46b-9 and 63-46b-10 and Administrative Rule R590-160-6.

**ISSUE, BURDEN and "STANDARD OF PROOF"**

1. The basic issue(s) in this case is (are):

a. Did the Respondent from approximately April 2003 through June 13<sup>th</sup>, 2005 employ one Amy Bringhurst and or one Bernie Bringhurst, when the said Amy Bringhurst and or the said Bernie Bringhurst had previously been convicted of bank larceny, a federal felony involving dishonesty or a breach of trust in July 2001, in violation of Section 31A-23a-111(5)(b)(xxiii) and (xxiv), Utah Code Ann., 1953, as amended?

b. And if so what is the appropriate penalty, if any?

(SEE also Paragraph 2 under DISCUSSION-ANALYSIS.)

2. The "*burden of proof*" or "*burden of going forward*" in this case as to the above issue(s) is on the Complainant Department.

3. As per Utah Administrative Code Rule, R590-160-5(10) as to the above and foregoing "issue(s)" or "question(s)" to be answered the "*standard of proof*" as to issues of fact is to be proven by a "*preponderance of the evidence*".

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Both parties presented opening statements.

Thereafter, evidence was offered and received.

## **SUMMARY OF THE EVIDENCE**

### **Witnesses:**

#### **For the Complainant Department:**

1. Julie Chytraus, *New Licensing Technician*, Utah Insurance Department, State Office Building, Room 3110, Salt Lake City, Utah 84114.
2. Gerri Jones, *Title Marketing Examiner*, Utah Insurance Department, State Office Building, Room 3110, Salt Lake City, Utah 84114.

#### **For the Respondent:**

1. Karl Richins, *United States Probation Officer*, United States Courts, Salt Lake City, Utah 84111.
2. Tom Paschen, *Vice-president*, First Southwestern Title Agency of Utah, Inc., 102 West 500 South, Suite 30, Salt Lake City, Utah 84101.

All of whom were sworn and testified.

### **Exhibits:**

#### **The Complainant Department offered the following exhibits:**

1. **Complainant's Exhibit No. 1**, consisting of twenty (20) type written or printed pages, being a copy of a May 25, 2005 *fax* from First Southwestern Title Agency of Utha to Utah Insurance Department regarding Bernie Bringhurst.
2. **Complainant's Exhibit No. 2**, consisting of one (1) type written or printed page, being a copy of a May 27, 2005 *letter* from the Utah Insurance Department to Bernie Franklin Bringhurst "RE: Application for Insurance Licensing USC Title 18 1033.
3. **Complainant's Exhibit No. 3**, consisting of nine (9) type written or printed pages, being a copy of an April 12, 2003 Spectra Staffing Services LLC "*Application for Employment*" concerning Bernie F. Bringhurst.
4. **Complainant's Exhibit No. 4**, consisting of five (5) type written or printed pages, being a copy of a May 26, 2005 *email* from Utah Dept. of Insurance to [Nblanco@fswtut.com](mailto:Nblanco@fswtut.com) regarding Title 18 – Chapter 47 – Sec. 1033 with copy of referenced section attached.

5. **Complainant's Exhibit No. 5**, consisting of two (2) type written or printed pages, being a copy of a June 8, 2005 *email* from Tom Paschen to Gerri Jones, and a copy of a June 14, 2005 *email* from Tom Paschen to Gerri Jones.

6. **Complainant's Exhibit No. 6**, consisting of one (1) type written or printed page, being a copy of the first page of the Winter 1999 Utah Insurance Department News "newsletter" showing an article regarding Title 18 of the Federal Code.

7. **Complainant's Exhibit No. 7**, consisting of two (2) type written or printed pages, being a copy of *Bulletin 2000-2* dated April 20, 2000 and *Bulletin 2000-3* dated May 10, 2000 regarding Title 18 United States Code Sections 1033 and 1034.

8. **Complainant's Exhibit No. 8**, consisting of one (1) type written or printed page, being a copy of hardcopy of an October 25, 2001 "overhead" utilized by the Utah Insurance Department in licensing in-service presentations.

(All of which were accepted and entered by Stipulation of the parties.)

The Respondents offered the following exhibits:<sup>1</sup>

1. **Respondents' Exhibit No. 1**, consisting of one (1) page of typed and or printed materials, being a copy of a November 30, 2005 "ADP Master Control" of First Southwestern regarding pay statements for Amy Bringhurst and Bernie Bringhurst.

2. **Respondents' Exhibit No. 2**, consisting of one (1) page of typed and or printed materials, being a copy of a June 13, 2005 "Interoffice Memorandum" on First Financial Title Agency of Arizona stationary regarding "Personnel Policies and Procedures, Hiring Process effective 6/13/05".

3. **Respondents' Exhibit No. 3**, consisting of one (1) page of typed and or printed materials, being a copy of an "Applicant Release and Order Form".

4. **Respondents' Exhibit No. 4**, consisting of two (2) pages of typed and or printed materials, being "blank" copies of the monthly calendars for the month of May 2005 and June 2005.

(All of which were accepted and entered by Stipulation of the parties.)

*Argument followed.*

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<sup>1</sup> The Respondent in its oral *Motion to Dismiss* at the close of the Complainant's case in chief, which was denied, and in Respondent's closing argument referenced two (2) federal court cases, Ratzlaf v. United States, 114 S. Ct. 655 (1994), and United States of America v. Wenger, 427 F. 3d. 840 (Tenth Circuit, 2005), 18 U. S. C. A. 1033 and Alaska Statute AK ST 21.36.355, copies of which were supplied by Respondent's counsel and which are taken judicial notice of by the Presiding Officer and retained in the file.

The Presiding Officer being fully advised in the premises and taking administrative notice of the files and records of the Department, now enters his *Findings of Fact, Conclusions of Law, and Order*, on behalf of the Department:

## **FINDINGS OF FACT**

**I, find by a preponderance of the evidence, the following facts:**

### *Preliminary-Procedural Facts* (Paragraphs 1-7)

1. The Utah Insurance Department ("*Department*") is a governmental entity of the State of Utah. The Department as per Utah Code Ann. Section 31A-2-101 is empowered to administer the *Insurance Code*, Title 31A, Utah Code Ann., 1953, as amended.

2. The Respondent, First Southwestern Title Agency of Utah, Inc. ("*First SW*" or "*Respondent*"), is:

a. an apparent Utah corporation, domiciled in and maintaining a present principal business address of 102 West 500 South, Suite 30, Salt Lake City, Utah 84101; and

b. a licensed title insurance agency in the State of Utah having obtained and maintained License No. 6033 since on or about March 7<sup>th</sup>, 1994.

3. The Department on or about February 10<sup>th</sup>, 2006 filed its "*Complaint*" alleging in substance those particulars as set forth in Paragraph 1 of "*Issue, Burden and 'Standard of Proof'*", above, and issued a "*Notice of Formal Adjudicative Proceeding and Pre-Hearing Conference*", being Docket No. 2006-011-PC, to the Respondent. A copy of said Notice being mailed to the Respondent at its referenced business address on or about February 13<sup>th</sup>, 2006.

4. The Respondent filed its "*Answer*" on March 17<sup>th</sup>, 2006.

5. A Pre-Hearing Conference was held on March 27<sup>th</sup>, 2006 and a formal hearing set in said matter for April 26<sup>th</sup>, 2006 at 8:30 o'clock A. M..

6. By mutual agreement and Notice of Continuance of Hearing under date of April 21<sup>st</sup>, 2006 the matter was continued for hearing to May 24<sup>th</sup>, 2006 at 8:30 o'clock A. M.

7. That based on the preliminary facts as set forth in paragraphs 1 through 6, immediately above, a hearing was held on May 24<sup>th</sup>, 2006 8:30 o'clock A. M..

*Operative Facts*  
(Paragraphs 8 -13)

General

8. The Respondent First Southwestern Title Agency of Utah, Inc. has operated a licensed title insurance agency in Utah for at least the past twelve (12) years. Respondent is a subsidiary of a title insurance entity operating in several states. The Respondent apparently offering a complete array of title insurance, escrow and real estate settlement services.

9. The Department on or about May 25<sup>th</sup>, 2005 and through subsequent investigation based on the filing of an application for an initial title producer license by Bernie Bringhurst became aware of the employment of Amy Bringhurst and Bernie Bringhurst by the Respondent since sometime in April 2003.

Specific to Allegations

10. From sometime in April 2003 through June 13<sup>th</sup>, 2005, Respondent First Southwestern Title Agency of Utah, Inc. employed Amy Bringhurst and Bernie Bringhurst in apparent clerical and or "runner" type positions.

11. Both Amy Bringhurst and Bernie Bringhurst prior to their employment with the Respondent had been convicted of a federal felony, bank larceny, a crime involving dishonesty and or a breach of trust sometime in Fall 2001.

12. Between Winter 1999 and May 25<sup>th</sup>, 2005 the Department through various means, including newsletters, bulletins and in-service presentations made reasonable and appropriate efforts of informing both the public and the insurance industry in particular of the existence and impact of 18 U. S. C. 1033 and Section 31A-23a-111(5)(b)(xxiii) and (xxiv).

13. Between May 25<sup>th</sup>, 2005 and the Bringhursts eventual dismissal from employment by the Respondent on June 13, 2005 Department representatives repeatedly informed the Respondent that the continued employment of the Bringhursts was in violation of the Utah Insurance Code.

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**DISCUSSION-ANALYSIS**

(Paragraphs 1 -9)

1.a. Both the Respondent and the Department in large measure while advocating clearly different characterizations or interpretations of the above referenced operative facts in substance concurred as to the basic *chronology* and **core** facts.

b. The record now being complete sets forth competent and credible evidence for the entry of the following analysis.

2. The question(s) presented is:

a. i. "Whether the Respondent's (in)actions are violative of Utah Code Ann. Section 31A-23a-111(5)(b)(xxiii) and (xxiv)"; and

ii. "If the Respondent has so violated said cited statutory sections what, if any, are the appropriate penalties to be imposed"; and

b. Whether as per Utah Administrative Code Rule, R590-160-5(10) as to each of the above and foregoing "issue(s)" or "question(s)" to be answered the "*standard of proof*" as to issues of fact have been proven by a "*preponderance of the evidence*"?

3. Applicable Pertinent Statutes and Administrative Rules are as follows (although others may be otherwise specifically cited within the body of this "*Order on Hearing*"):

a. Subsection 31A-23a-111(5)(a) and (b)(xxiii) and (xxiv) state in part:

**31A-23a-111. Revocation, suspension, surrender, lapsing, or limiting of license.**

(5)(a) If the commissioner makes a finding under Subsection (5)(b), after an adjudicative proceeding under Title 63, Chapter 46b, Administrative Procedures Act, the commissioner may:

(i) revoke:

(A) a license; or

(B) a line of authority;

(ii) suspend for a specified period of 12 months or less:

(A) a license; or

(B) a line of authority; or

(iii) limit in whole or in part:

(A) a license; or

(B) a line of authority.

(b) The commissioner may take an action described in Subsection (5)(a) if the commissioner finds that the licensee:

(xxiii) has violated or permitted others to violate the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U. S. C. Secs. 1033 and 1034; or

(xxiv) has engaged in methods and practices in the conduct of business that endanger the legitimate interests of customers and the public.

(EMPHASIS ADDED)

b. **18 U. S. C. 1033(e)(1)(A) and (B)** state:

(e)(1)(A) Any individual who has been convicted of any criminal felony involving dishonesty or a breach of trust, or who has been convicted of an offense under this section, and who willfully engages in the business of insurance whose activities affect interstate commerce or participates in such business, shall be fined as provided in this title or imprisoned not more than 5 years, or both.

(B) Any individual who is engaged in the business of insurance whose activities affect interstate commerce and who willfully permits the participation described in subparagraph (A) shall be fined as provided in this title or imprisoned not more than 5 years, or both.

(EMPHASIS ADDED)

c. Subsection 31A-2-308(1)(a) and (b) states:

**31A-2-308. Enforcement penalties and procedures.**

(1) (a) A person who violates any insurance statute or rule or any order issued under Subsection 31A-2-201(4) shall forfeit to the state twice the amount of any profit gained from the violation, in addition to any other forfeiture or penalty imposed.

(b) (i) The commissioner may order an individual producer, limited line producer, customer service representative, managing general agent, reinsurance intermediary, adjuster, or insurance consultant who violates an insurance statute or rule to forfeit to the state not more than \$2,500 for each violation.

(ii) The commissioner may order any other person who violates an insurance statute or rule to forfeit to the state not more than \$5,000 for each violation.

(EMPHASIS ADDED).

d. Subsection 31A-2-308(10) states:

**31A-2-308. Enforcement penalties and procedures.**

(11) (a) After a hearing, the commissioner may, in whole or in part, revoke, suspend, place on probation, limit, or refuse to renew the licensee's license or certificate of authority:

(i) when a licensee of the department, other than a domestic insurer:

(A) persistently or substantially violates the insurance law; or

(B) violates an order of the commissioner under Subsection 31A-2-201(4);

(ii) if there are grounds for delinquency proceedings against the licensee under Section 31A-27-301 or Section 31A-27-307; or



(iii) if the licensee's methods and practices in the conduct of the licensee's business endanger, or the licensee's financial resources are inadequate to safeguard, the legitimate interests of the licensee's customers and the public.

(b) Additional license termination or probation provisions for licensees other than insurers are set forth in Sections 31A-19a-303, 31A-19a-304, 31A-23a-111, 31A-23a-112, 31A-25-208, 31A-25-209, 31A-26-213, 31A-26-214, 31A-35-501, and 31A-35-503.

(EMPHASIS ADDED).

e. Section 31A-23a-112 states in part:

**31A-23a-112. Probation – Grounds for revocation.**

(1) The commissioner may place a licensee on probation for a period not to exceed 24 months as follows:

(a) after an adjudicative proceeding under Title 63, Chapter 46b, Administrative Procedures Act, for any circumstances that would justify a suspension under Section 31A-23a-111;

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(2) \*\*\*\*\*

(3) The probation order shall state the conditions for retention of the license, which shall be reasonable.

(4) Any violation of the probation is grounds for revocation pursuant to any proceeding authorized under Title 63, Chapter 46b, Administrative Procedures Act.

(EMPHASIS ADDED).

4. a. The Respondent's actions or rather in-actions by its own admission(s) create at a minimum in a technical sense violation of the cited statutory sections.

b. The Respondent takes a three prong stance of "it (the hiring and employment of the Bringhursts) isn't a crime", if it is "we didn't do it" as well as "we did it, but didn't realize it was a violation" all at the same time.

c. The Respondent in a large part of its defense takes a legal argument stance that equates to the common law pleading of a *demurrer* ----- or in so many words "so what" or its (in)actions "do not equate to an offense" as well as that the determination that Respondent "violated" 18 U. S. C. 1033 is beyond the jurisdiction of the Utah Insurance Department.

d. Additionally the Respondent takes the counter position to its one of denial to one of "mitigation" based on "good faith". In so many words, "we didn't know we weren't doing it right".

5. The Presiding Officer after review of the testimony and the pro-offered exhibits of both parties, including the cases tendered by the Respondent, determines that **the Department clearly does have authority to enforce its own statutes**, namely Section 31A-23a-111(5)(b)(xxiii) and (xxiv), by "*making a finding*" that the Respondent "violated" 18 U. S. C. 1033 while at the same time acknowledging that the "enforcement" of 18 U. S. C. 1033 per se is clearly beyond the authority of the Department.

6. a. The Respondent attempts to make much about the Department (Commissioner) not being able to "find[s] that the licensee", here the Respondent, "has violated or permitted others to violate the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U. S. C. Secs. 1033 and 1034".

b.i. The Respondent argues the Department cannot make such a determination and enforce federal law. Such being beyond the jurisdiction and authority of the Department.

ii. The Presiding Officer would clearly concur. The Department cannot assess a monetary fine for violation of the federal law. The Department most certainly cannot imprison the Respondent or anyone for the "not more than 5 years" referenced in 18 U. S. C. 1033 (e)(1)(A) or (B).

c.i. That is not what the Commissioner or Department attempts or does in making a "finding" within the present administrative framework in enforcing Section 31A-23a-111(5)(b)(xxiii).

ii. A. The Presiding Officer as the representative of the Commissioner in making "findings" in the present administrative process does what any (hoped for) rational and thinking individual does in making "findings", "inferences" and engaging in "analysis" about many things on a daily basis. Albeit in a more serious arena.

B. Such daily "findings" run the gambit, e. g. from "finding" out that its not a good idea to go the wrong way on I-15 which anyone one would "find" is a violation of the Utah traffic laws to a "finding" by many Americans that OJ (probably) killed Nicole Brown Simpson to quite possibly a "finding" by just as many Americans that the "Juice" didn't do it.

C. Such are findings we all make everyday. In each of the 2 cited instance though whether going down the wrong way for purposes of **enforcing** the traffic laws of Utah and assessing a fine or whether he (OJ) did or didn't do it for purposes of incarcerating a murderer in **enforcing** the California penal laws is a different story. Only the duly constituted enforcement agency may prosecute and the duly seated judge or impaneled jury can make such a "guilty" determination as a prerequisite to imposing the appropriate statutory penalty.

D. In the present instance the Department is not, for it clearly cannot, enforcing 18 U. S. C. 1033 for the purposes of assessing the statutory monetary fine and or imposing an incarceration of not more than five years. Only the U. S. Attorney can initiate such an action. Only a federal jury (or federal judge in a bench trial) can make a determination of "guilty". And only a federal judge can impose the statutory penalties.

E. The Department through its employees and agents in investigating and the Presiding Officer in the present instance in making his "finding" on behalf of the Commissioner is only utilizing its rational thinking processes in fulfilling its statutory charge in regulating the insurance industry in the public interest.

F. The Respondent points out the Alaska statute as a better drafted statute than the instant Utah statute. The Presiding Officer would not disagree and gratuitously would recommend to the Department that it review the Alaska statute. That the Alaska or another state's "1033" statute might be better drafted does not though invalidate Utah's approach. The intent and purpose of Section 31A-23a-111(5)(b)(xxiii) is clear in its purposes and efforts to keep individuals who have been previously convicted of a "criminal felony involving dishonesty or a breach of trust" from being engaged in the insurance industry without permission of the Commissioner.

7. The really "heart" issue in light of such admissions, determination and finding clearly focuses on "what is the appropriate penalty for such Section 31A-23a-111(5)(b)(xxiii) and (xxiv) violations?"<sup>2</sup>

8. Apparently as far as can presently be determined no members of the public were actually injured, although arguably the overall public is injured per se when the "rule of law" is not followed. The Respondent while the Department takes issue with such efforts made reasonable efforts to remedy the circumstance and to come into compliance. The Respondent apparently has no past history of major problems and appears to be and have been earnest in its efforts to comply and is amenable to rehabilitation.

9. a. The Department could assess up to \$5,000.00 per violation as to the Respondent.

b. The Presiding Officer's institutional memory recalls a "standard" forfeiture or fine in ongoing violations, if not similar offenses, of approximately \$250.00 per incident per day.

c. Here we have approximately 553 work days<sup>3</sup> if we use a May 1, 2003 (the first full work day after the "sometime in April 2003" starting date in the Department's Complaint) to June 13, 2005 (the Bringhursts' termination date) employment period. It is

<sup>2</sup> Without the necessity of extensive analysis the Presiding Officer finds that the employment of a person(s) convicted of a felony of dishonesty or a breach of trust is per se engaging "in methods and practices in the conduct of business that endanger the legitimate interest of customers and the public" and a violation of Section 31A-23a-111(5)(b)(xxiv).

<sup>3</sup> This based on a 260 day work year, including paid vacation, or 260 days for May 1, 2003 through April 30, 2004 + 260 days for May 1, 2004 through April 30, 2005 + 22 days for May 2005 + 11 days for ½ of June 2005 = 553 days.

clear that if we multiply 553 times \$250.00 we have an almost astronomical figure of over \$138,000.00 for Amy Bringhurst and an additional equally astronomical figure of \$138,000.00+ for Bernie Bringhurst.

d. The Presiding Officer has attempted to "*balance*" the equities.

e. Accordingly the Presiding Officer feels a reduction of the Complainant-Department requested "in an amount of not less than \$50,000.00" as to the Respondent, once calculated, by three-quarters (3/4) is in order **IF** the Respondent pays the remaining one-quarter (1/4), once calculated, within fifteen (15) days of the date of this Order to reflect their ongoing good faith and have no similar violations during a period of probation is appropriate in light of the totality of the circumstances.

f. The Court also feels the imposition of a twelve (12) months period of probation as to the Respondent's license is in order. During such time the Respondent should without a reporting requirement establish or expand an in-house in-service program to stay informed of the requirements of the Utah Insurance Code as regards the instant issue the subject matter of this present proceeding as well as all requirements imposed on a Utah title agency so as to effectuate the Respondent's ongoing compliance therewith<sup>4</sup>.

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**BASED ON THE ABOVE AND FOREGOING FINDINGS OF FACT** and discussion-analysis the Presiding Officer enters the following:

### **CONCLUSIONS OF LAW**

1. The Respondent First Southwestern Title Agency of Utah, Inc. violated Utah Code Ann. Section 31A-23a-111(5)(b)(xxiii) and (xxiv) as alleged in the Complainant Department's February 10<sup>th</sup>, 2006 Complaint; and

2. a. The Department in accordance with Section 31A-2-308(1)(b)(ii) "may order any (other) person who violates an insurance statute or rule to forfeit to the state not more than \$5,000 for each violation".

b. i. Each separate day of employment of Amy Bringhurst by the Respondent equates to a separate violation of Section 31A-23a-111(xxiii) and or (xxiv); and

ii. Each separate day of employment of Bernie Bringhurst by the Respondent equates to a separate violation of Section 31A-23a-111(xxiii) and or (xxiv);

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<sup>4</sup> Testimony of the Respondent's Vice-president indicated the Respondent's parent corporation operates in several states in addition to Utah. Testimony of the witness seemed to indicate that no specific state or overall compliance officer is employed. It would seem especially based on probable varying requirements in the several states that such engaging of a compliance officer might be prudent although not made a mandate of this present Order.

3. The imposition of a \$110,6000.00 administrative forfeiture as to Respondent First Southwestern Title Agency of Utah, Inc. is within the statutory authority of the Department to impose for multiple violations as herein proven by the Complainant Department.

4. The Commissioner in accordance with Subsection 31A-2-308(10)(a) and (b) and Section 31A-23a-312(1) after a formal adjudicative proceeding may place a licensee on probation for a period not to exceed 24 months”.

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**AND BASED ON THE ABOVE AND FOREGOING CONCLUSIONS OF LAW**  
the Presiding Officer enters the following:

### **ORDER**

**WHEREFORE, IT IS ORDERED that:**

1. a. The Respondent First Southwestern Title Agency of Utah, Inc. being in violation of Utah Code Ann. Section 31A-23a-111(5)(b)(xxiii) and (xxiv) is hereby assessed an administrative forfeiture calculated as follows:

i. A. employment of Amy Bringhurst for 553 work days, from May 1, 2003 to June 13, 2005 at the rate of \$100.00 per day or \$55,300.00; and

B. employment of Bernie Bringhurst for 553 work days, from May 1, 2003 to June 13, 2005 at the rate of \$100.00 per day or \$55,300.00;

for a total administrative forfeiture of \$110,600.00;

ii. all of which except for \$27,650.00 is hereby *stayed* on the following terms and conditions:

A. The remainder of said forfeiture or \$27,650.00 is paid by certified check or money order payable to the Department within fifteen (15) days of the date of this order; and

B. The Respondent have no further similar violations or other substantive violations of the Utah Insurance Code for a twelve (12) months period of probation as set forth in Paragraph 1.b, immediately below;

with the Respondent's failure to comply with such terms and conditions making the balance of such suspended fine or an additional \$82,950.00 due and payable immediately, subject to revocation action;

b. The Respondent First Southwestern Title Agency of Utah, Inc.'s license is placed on a term of probation for twelve (12) months.

DATED and ENTERED this <sup>16</sup>/<sub>3</sub> day of June, 2006.

**D. KENT MICHIE,  
INSURANCE COMMISSIONER**





MARK E. KLEINFELD  
ADMINISTRATIVE LAW JUDGE and  
PRESIDING OFFICER  
Utah Insurance Department  
State Office Building, Room 3110  
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### **ADMINISTRATIVE AGENCY REVIEW**

Administrative Agency Review of this Order may be obtained by filing a Petition for Review with the Commissioner of the Utah Insurance Department within thirty (30) days of the date of entry of said Order consistent with Utah Code Ann. Section 63-46b-12 and Administrative Rule R590-160-8.

**Failure to seek agency review shall be considered a failure to exhaust administrative remedies.**

(R590-160-8 and Section 63-46b-14)

### **JUDICIAL REVIEW**

As an "**Formal Hearing**" after agency review judicial review of this Order may be obtained by filing a petition for such review consistent with Utah Code Ann. Section 63-46b-16.

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